

UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

ISSAC N. CORONADO,  
Plaintiff,

v.

NARINDER SAUKHLA,  
Defendant.

No. 2:21-cv-0215 WBS CKD P

FINDINGS AND RECOMMENDATIONS

Plaintiff is a California prisoner proceeding pro se with a civil action. Defendant is a physician employed by the California Department of Corrections and Rehabilitation at the California Medical Facility.

On January 30, 2023, plaintiff was ordered to show cause within 21 days why this action should not be dismissed under Rule 41(b) of the Federal Rules of Civil Procedure for plaintiff's failure to follow court orders by (1) refusing to cease filing frivolous motions and requests and (2) refusing to adhere to the court's September 21, 2022 order that he serve responses to defendant's first request for production of documents and first set of interrogatories. ECF No. 104.

A review of the court's record reveals that prior the to the issuance of the court's order to show cause, plaintiff had filed 28 requests, motions, notices, etc.,<sup>1</sup> which had no basis in law,

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<sup>1</sup> ECF Nos. 17, 34, 35, 39, 47, 48, 51, 54, 55, 57, 61, 64, 66, 68, 72, 76, 77, 79, 82, 83, 88, 89, 91, 92, 96, 97, 99 & 100.

1 were an attempt relitigate issues which had already been decided or were otherwise frivolous. On  
2 November 30, 2022, the court issued a first warning to plaintiff that sanctions would issue if  
3 plaintiff did not cease in filing frivolous motions, and that dismissal was a possible sanction. ECF  
4 No. 84. A second such warning was issued on January 6, 2023, after plaintiff had submitted 6  
5 more frivolous motions, requests, or notices after the date of the first warning. ECF No. 98.

6 Before responding to the order to show cause, plaintiff filed yet another frivolous request.  
7 ECF No. 106. This time plaintiff asked that the Clerk of the Court provide plaintiff with  
8 transcripts and other parts of the record relevant to a frivolous interlocutory appeal which had  
9 already been dismissed by the Ninth Circuit for lack of jurisdiction. ECF No. 102. Further, as  
10 noted in the Clerk's response, there have not been any hearings in this case so there are no  
11 transcripts of hearings.

12 Further, and again before filing a response to the order to show cause, plaintiff filed a  
13 reply brief on February 21, 2023, with respect to a motion which was denied as frivolous on  
14 January 30, 2023, in the order to show cause. ECF No. 109.

15 Plaintiff filed his response to the order to show cause on February 27, 2023. ECF No. 111.  
16 Essentially, plaintiff asserts that he refuses to cooperate in discovery because of his dissatisfaction  
17 with the court's denial of his motion for leave to amend his complaint and other reasons which  
18 are meritless.<sup>2</sup> Further, plaintiff does not indicate a willingness to cooperate in discovery at  
19 present. As for the filing of frivolous motions, plaintiff asserts that he does not file frivolous  
20 motions; an assertion which is categorically belied by the record. The court understands that the  
21 plaintiff is proceeding pro se and has mental health issues, but those conditions do not excuse the  
22 barrage of motions, requests, and notices that plaintiff refuses to stop filing and which have no  
23 valid basis in law.

24 Indeed, after filing his response to the order to show cause, plaintiff filed two requests for  
25 a "final and appealable order." ECF No. 113 and 115. Both requests are frivolous and will be  
26 denied. Plaintiff also filed a request for "ADA Assistance," apparently asking for names and

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27 <sup>2</sup> Plaintiff does explain that he has mental health issues, and while the court is sympathetic to  
28 those issues, it does not excuse plaintiff's refusal to abide by the court's orders.

1 contact numbers for a judge and clerk in the Eastern District of California who could answer  
2 questions he has. ECF 114. This request is not appropriate and will be denied.

3 Before dismissing an action for failure to follow court orders the court must consider the  
4 five factors identified by the Ninth Circuit in Ferdik v. Bonzelet, 963 F.2d 1258, 1260-61 (9th  
5 Cir. 1992): (1) the public's interest in expeditious resolution of litigation; (2) the court's need to  
6 manage its docket; (3) the risk of prejudice to the defendant; (4) the public policy favoring  
7 disposition of cases on their merits; and (5) the availability of less drastic alternatives.

8 The only factor weighing against dismissal is the fourth factor. However, this case is  
9 already two years old and discovery has been stymied because of plaintiff's willful failure to  
10 participate in the process. This court's already-stretched judicial resources have been unduly  
11 taxed plaintiff's numerous frivolous filing. It is not clear whether defendant's case has been  
12 permanently prejudiced by plaintiff's actions, but (1) defendant does have a right to obtain  
13 discovery from plaintiff and plaintiff has refused to provide it, and (2) defendant has had to waste  
14 resources to respond to, or at least consider, plaintiff's frivolous and at times vexatious filings.  
15 Plaintiff's refusal to participate in discovery and willful failure to stop the bombardment of  
16 frivolous filings offers no alternative other than dismissal of this action.

17 Accordingly, IT IS HEREBY ORDERED that:

18 1. Plaintiff's April 14, 2023 (ECF No. 114) request for ADA Assistance is denied.

19 2. Plaintiff's April 5, 2023 (ECF No. 113) and June 26, 2023 (ECF No. 115) requests for  
20 a "final appealable order" are denied.

21 IT IS HEREBY RECOMMENDED that this action be dismissed with prejudice under  
22 Rule 41(b) of the Federal Rules of Civil Procedure for plaintiff's willful failure to follow the  
23 orders of this court.

24 These findings and recommendations are submitted to the United States District Judge  
25 assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within fourteen days  
26 after being served with these findings and recommendations, any party may file written  
27 objections with the court and serve a copy on all parties. Such a document should be captioned  
28 "Objections to Magistrate Judge's Findings and Recommendations." Any response to the

1 objections shall be served and filed within fourteen days after service of the objections. The  
2 parties are advised that failure to file objections within the specified time may waive the right to  
3 appeal the District Court's order. Martinez v. Ylst, 951 F.2d 1153 (9th Cir. 1991).

4 Dated: July 3, 2023



CAROLYN K. DELANEY  
UNITED STATES MAGISTRATE JUDGE

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